



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

THE RAINES LIQUOR-TAX LAW.

BY THE HON. J. RAINES, OF THE NEW YORK SENATE.

It is admitted by nearly all who have given the subject consideration, that the traffic in liquor must be regulated by legal enactment. It is not important to state the reasons which have led to this consensus of opinion, so long as the fact exists that all governments assume to place restrictions upon it, with a view to mitigating to some extent the evils which seem necessarily to result to individuals and society from the business.

The various and widely differing methods of regulation which have been attempted afford an interesting study, both from a humanitarian and from an economic standpoint. The laws of the several States differ as widely as the general characteristics of the people who formulate them, and the influence of the traffic itself on legislation can be gauged to a great degree by the provisions of the statutes enacted. Prohibition, State ownership and conduct, and license under different forms and with varied restrictions, are all under trial, each system having its advocates as well as its opponents. The more general form of regulation is through a system of licenses, involving the conferring upon selected persons of discretionary power to grant or refuse the privilege of selling. This discretionary power is usually somewhat limited by statutory provisions, prescribing regulations as to places where the traffic may be carried on, as to the character of persons who may be licensed, and the amount that may be charged for the privilege of selling. The exercise of this discretion, as is natural, results in abuses of various kinds, whether the power be conferred upon judges or upon excise commissioners. In the case of judges, elected for long terms, the evil effects of the license system may not so soon become apparent as when the power is exercised by commissioners having short terms of office,

or who are subject to be changed at the will of the appointing power. I can but believe, however, that in the end it will become apparent that the worst system of all is that which places the granting of licenses at the discretion of judges.

The political power of those engaged in the traffic is apparent to-day, as it has never been before. Their influence is not limited by their own numbers, but extends to those engaged in the various avocations with which they have business connections. The manufacturers, the wholesalers, the retailers of liquors, their employees, the owners of property occupied, those engaged in the various trades which receive patronage, as cartmen, grocers, butchers, bakers, bankers, editors, office-holders who owe their places to the votes given by those engaged in the liquor business, form a continuous chain, and are nearly all at the command of the executive committees of this organized industry. It is but natural that the trade should use every effort to protect itself, and so long as discretion can be exercised by any local authority, the effort will be made to control the power which designates or appoints the persons who are to limit or extend its rights, whether those persons be judges or excise commissioners. A careful observer has well said : " It is evident, when a municipality has control of the liquor traffic either directly or through a board appointed by it (as in New York city), that those interested in that trade have the strongest motive to obtain control, if they can, of the municipality. If American experience proves anything, it proves the danger of giving licensing power to the elective body which is vested with general management of local affairs." That this view is correct is evidenced by the combinations made especially in the city alluded to, between those engaged in the traffic and political parties, through which the city government has been controlled. What is said of New York city applies with almost equal force to every locality in the State. The combination of liquor dealers in New York with a political party, enabled that party to enact the worst license law that can be found in the statutes of any State, and, bad as that law is, to make the matter still worse through open and unpunished violations of the few restrictive provisions which, for the sake of appearances, were incorporated in it. How favorable that law is to the traffic may be judged from the herculean efforts made by its beneficiaries to prevent a change in the system.

It has long been the desire on the part of many to effect a change in the law that should, as far as possible, take from those engaged in the liquor traffic the apparent or assumed business necessity of permitting their political action to be controlled for partisan purposes, and also by such change to deprive any political party or party leader of the power to virtually compel such persons to promote party success through contributions of money or votes. It has also seemed desirable to limit the number of places in which the traffic is carried on, and to compel the traffic to meet more nearly the immediate expense which it imposes on the taxpayer. High license would accomplish the latter results, but not the former. So long as power shall be lodged in any board to exercise discretion as to who shall have the privilege of engaging in the liquor traffic, so long will it be a potent factor in politics as an organized, compact force, to be used to control municipal governments and even the State itself.

The bill which has lately passed the New York Legislature aims to secure political independence to those wishing to engage in the liquor traffic, by defining in the law itself those who may engage in the traffic and the exact terms on which they may do so. It aims at regulation by law, instead of leaving a power of discretion with excise boards which might be used for political or other purposes. The law of 1892 gave a right of review by the courts of the action of commissioners of excise when such commissioners refused to grant a license to the applicant. The new act preserves the right to a review by the courts when a tax certificate—which takes the place of the present license—is refused, and gives a further right of review by the court, on the application of a citizen who claims that a certificate is illegally granted. Thus the rights of the individual and of the public would seem to be protected.

Another object of the act is to reduce the number of places where liquor is sold. It is admitted that the pressure on excise commissioners for licenses is so great that it is almost impossible to induce them to limit reasonably the number of liquor-saloons. It is admitted that the number can be effectually limited through the tax levied; the higher the tax the fewer are those who will pay it. Many of the advocates of a high license feel that the tax imposed by this act is not enough to secure the desired reduction, and would have preferred that it had been made at least one

thousand dollars in cities of the first class, New York, Brooklyn, and Buffalo. I am not disposed to assume that this view is not correct, still less do I care to argue that the tax is not too low in places of below 50,000 inhabitants. There are wide differences of opinion as to what may be considered a suitable proportion between places where liquor is sold and the population, some holding that there should be no such places, others that "too many are just enough." It has been assumed that the act passed would reduce the number by forty per cent., or from 42,763 to 25,658. I am disposed to believe that the reduction will be not far from thirty per cent.

Another object of the bill is to compel the traffic to pay to the locality and the State a greater proportion of the expense it occasions to the taxpayers than it has heretofore done. The justice of doing this cannot be controverted. Should not the traffic contribute for the relief of all, since it taxes all?

The provisions of the act are intended also to make the restrictive portions of the law more easy of enforcement. To this end the public display of the tax certificate is required; the places are more open to inspection during hours when the traffic is forbidden; penalties for violation are much more severe; all the means in use at present to detect violation are retained, and in addition special officers are appointed to assist in detecting and prosecuting law breakers. It is assumed that the present excise law cannot be enforced, because, it is claimed, the people are not in sympathy with such enforcement. This assumption is a slander on the people. It is not enforced because those engaged in the traffic are an organized force, so powerful that they are able to reach, in many cases, those whose immediate duty it is to execute the law, while the friends of law and order, though greatly in the majority, unorganized, and not united as to methods, fail to make their power felt. The 289 brewers of the State, thoroughly organized, with the "sinews of war" at immediate command, and ever alert and active, are a more potent factor than fifty times that number of good citizens, who are at heart opposed to the traffic and in favor of the enforcement of law, but who are without organization, and without a "camp chest."

Another provision of the bill establishes local option in towns, by providing for a direct vote at the next town meeting as to whether tax certificates of the several classes shall be issued in

the town or not. Under the present law, local option by indirection is permitted; that is, excise commissioners are elected who are supposed to be favorable or unfavorable to the granting of licenses. It often occurs that after they have been elected the commissioners do not act as they were expected to do. This cannot be the case under the new law.

It is supposed that associations called "clubs" are within the provisions of this act, and this has occasioned considerable opposition to the law.

In a case now pending in the Court of Appeals, the officers of a club were indicted, tried and convicted for selling liquor illegally. In that case the District Attorney admits there is no provision in the present law under which a club can be granted a license, hence the case is liable to turn on the simple question: Can a club sell liquor under the present law? In my judgment the case will go against the club. If this should happen, the clubs which have been denouncing this act, will, I think, be in favor of it as a whole.

The restrictions as to selling liquor in the vicinity of public institutions, such as insane asylums, are new and important, as tending to reduce the opportunities of attendants to obtain liquor.

The present excise law permits the sale of liquor to minors over sixteen years of age. The new act raises the age limit to eighteen. There are other important provisions in the bill which cannot be noticed within the limits of this article, but which will readily be observed upon a careful perusal of it; among them that prohibiting transportation companies from employing persons who are in the habit of indulging in the intemperate use of liquors, and that prohibiting the procuring of liquors for any person to whom it is forbidden to sell. I believe that as soon as the liquor interest shall have adjusted itself to the new order of business made necessary by this act, should it become a law, it will appreciate the fact that it is much better that the traffic should be regulated by law rather than by the discretion of boards of excise, while the people, relieved from a great burden of taxation, and from the combined and active efforts of those engaged in the traffic to control municipal governments for its protection, will approve the law as a whole, though some of the details of the law may be open to criticism.

J. RAINES.